



John R. Groundwater  
Executive Director

PASSENGER  
VESSEL  
ASSOCIATION

June 20, 1995

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The Honorable William F. Caton  
Office of the Secretary  
Federal Communications Commission  
Washington D.C. 20554

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FCC MAIL ROOM

Dear Mr. Caton:

1600 Wilson Boulevard  
Suite 1000A  
Arlington,  
Virginia 22209

Please accept the attached comments regarding **CI Docket No. 95-54** on behalf of the officers and members of the Passenger Vessel Association.

I hope you will let me know if you have any questions or need additional information. Your consideration is appreciated.

Sincerely,

Fax  
(703) 807-0103

(703) 807-0100

Attachment

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Federal Communications Commission  
Washington, DC 20554

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Comments Regarding CI Docket No. 95-54

#### Introduction

The Passenger Vessel Association (PVA) is pleased to respond to the Notice of Proposed Rulemaking (Notice) to amend the regulations which implement the Agreement between the United States and Canada for the Promotion of Safety on the Great Lakes by Means of Radio (Great Lakes Agreement).

The Passenger Vessel Association is a national trade association for the domestic passenger vessel industry in the United States. PVA today represents approximately 500 companies which own, operate or supply U.S.-flag passenger vessels. These companies operate dinner and excursion vessels, car and passenger ferries, overnight cruise vessels, private charter yachts, riverboat casinos and eco-tour vessels such as whale-watching vessels. Together, our members operate approximately 1,200 vessels and carry more than 90 million passengers each year. A substantial portion of our membership --- and a majority of the 490 FCC vessels inspected under the Great Lakes Agreement --- operate on all five of the Great Lakes and are directly affected by this Notice.

PVA strongly supports the direction of the Notice in introducing an alternative means of compliance validation using the private sector to carry out inspections under the Great Lakes Agreement rather than being restricted to Commission staff. The Notice does not provide equal relief or choice to all sectors of the regulated community. By restricting private sector participation to classification societies, the domestic passenger vessel industry is effectively excluded from the benefits of this rulemaking.

#### Discussion

The Notice acknowledges and capitalizes on the improvement in the reliability of modern communications hardware and the efforts of vessel operators in reducing inspection failures.

The built in reliability, performance and survivability of modern electronics is one of the more remarkable achievements of our manufacturing age. This hardware reliability and vessel operator record of maintaining reliable communication capability has substantially reduced the causes and opportunities for unacceptable performance which originally justified the operational inspection of shipboard radiotelephones.

The vessel operator's practice of retaining an FCC licensed radio technician to preinspect and to stand by during the FCC inspection has demonstrated that reliance solely on this private sector source has a great potential for cost effective maintenance of safety. Inspection of vessel radio installations by FCC licensed technicians opens the door to decreased inspection costs through avoidance of duplication, the efficiency of on the spot correction of deficiencies, elimination of government paperwork and separate prepayments, and most importantly, provides inspections geared to industry's schedules and locations rather than the FCC's limitations. The costs of an attending FCC licensed technician are normally less than the cost of the FCC user fee, especially in cases of multiple vessel inspections. The licensed technician's effort is compensated on an hourly not per vessel basis.

The Notice acknowledges the burden on the government resources for the currently mandated inspection schedule and the resulting need to control or limit industry access to FCC inspection services. Opening the inspection responsibility to FCC licensed radio technicians has the effect of exponentially increasing inspector accessibility and will eliminate the current burdens on industry necessary to accommodate the limited number of government inspectors. Adjusting vessel availability and schedules to limited Commission inspector availability involves extraordinary costs and lost opportunities.

The FCC also needs to evaluate the requirement for annual inspections of small passenger vessels under the Great Lakes Agreement. Small passenger vessels in other services, when inspected, are inspected on a five year cycle. Where small passenger vessels are not inspected, no known safety problems are traceable to the absence of government inspection. The adequacy and success of the longer inspection interval can be adopted here providing an additional substantial reduction in the need for inspection resources and still insure reliability of emergency communications.

The Notice is in keeping with the regulatory philosophy and principles of regulation enunciated in the President's Executive Order 12866 and the mandates to the Executive Branch in the President's letter of March 4, 1995 regarding the regulatory reinvention initiative. As such, it is imperative that the Notice's application and benefits be made accessible to domestic passenger vessel operators. If the FCC private sector alternative is limited to classification societies, the domestic passenger vessel industry, where there is no classification society history, will be thrust into a third party situation with additional costs and adjustments to accommodate a new player without commensurate benefit. That limitation of benefits would be in conflict with the intent of the Executive Branch and Congressional mandates.

The benefit of any study on private sector inspections is more than offset by the costs of delay. A study, particularly one where there is no enlightenment or agreement on the breadth, measurable criteria, acceptance values, time frame, goals, or the value of compliance with existing Presidential and statutory guidance has little to offer and represents unnecessary timidity.

The inclusion of authority for private sector inspections using FCC licensed radio technicians capitalizes on strengths and controls already in place. The capabilities and performance of all the parties are known and are subject to FCC or government control.

The Notice invokes the guidance of the International Maritime Organization as a criteria for organizations acting on behalf of a government agency. The problem with this guidance is that, for the domestic passenger vessel industry, the regulatory environments are not similar, the government authority's role is not similar, nor is the IMO solution of an International Association of Classification Societies (IACS) member the most efficient or effective choice. A more responsible and more cost effective choice for domestic vessels is an FCC licensed First Class Radio Technician. The licensed technician is under the effective control of FCC, has technical expertise in the FCC's area of interest, and has a presence and familiarity with the vessels, equipment and operations under inspection.

Each entity authorized to conduct inspections would be reimbursed under means typical for that entity such as normal billing for services of a licensed technician. There would be no user fee assessed by the FCC for vessels where the inspection was

completed by private sector resource. Any government record keeping, oversight, or other ministerial duty is done for the convenience of the Agency or in the public interest and therefore do not invoke the collection of FCC user fees.

#### Recommendations

The Passenger Vessel Association supports the expansion of FCC compliance inspections to FCC licensed First Class Radio Technicians.

Random inspections by the FCC are not required when private sector inspections are carried out by FCC licensed technicians. Those individuals, by virtue of their licenses, are agents of the FCC and their performance is controlled through the licensing process.

Follow up inspections by the FCC would diminish or eliminate the benefits sought through this rulemaking and are not required or supported.

Where inspections are accomplished by the private sector, any validation that an inspection has taken place should be accomplished by the Coast Guard in sighting the appropriate documentation during their inspection processes.

Maintaining the capability of Commission inspections is not required or deemed necessary provided authority for private sector inspections is expanded to include those performed by FCC licensed technicians.

The Passenger Vessel Association does not support a government study of the private sector initiative. A study contributes only delay to the proposed program.

The FCC should seek amendment of or authority under the Great Lakes Agreement to limit small passenger vessel inspections to once in every five years.

#### Related Recommendations

While it is not within the scope of this notice, PVA petitions the FCC to undertake a review of two related issues: enforcement of marine radio operational procedure and protocol and

the licensing process which leads to the Marine Radio Operator Permit for a vessel's master.

In the Notice, the FCC seeks assurance that marine safety will not be jeopardized by the transfer of radio inspection authority to private sector inspectors. As noted above, PVA is confident that safety will not be impaired one iota. PVA will observe, however, that marine safety today is impaired by the lack of enforcement of existing regulations governing the safe and proper use of marine radios. The FCC historically has been assigned the responsibility to enforce regulations to assure that marine radio transmissions are not frivolous, capricious or for purposes not appropriate to the safe navigation of vessels. Yet PVA operators every day report instances of abuse. Operators report that airways are frequently filled with the casual chatter of persons on subjects not related to navigation, vessel safety or other purposes for which marine radios are installed. Very often the airways are so clogged with irrelevant banter that serious requests for mariner information or assistance are hindered.

Resources of the FCC, while under current law are applied to the inspection of marine radios, are needed urgently to address this increasingly serious problem. In the interest of safe navigation, PVA urges the FCC to refocus its enforcement efforts in the area of marine radio operational procedure and protocol.

PVA also urges the FCC to undertake a review of the licensing process by which a vessel's master obtains the Marine Radio Operator Permit now required in order to operate a passenger vessel marine radio telephone. Once an initial competency test is passed and a Permit issued, the master must then renew his Operators Permit every five years. The application renewal fee is \$80, and payment must be accompanied by a complicated renewal application and filing fee form. This renewal process is not accompanied by a competency test or demonstration and, therefore, is not tied to any performance standard whatsoever. It simply is a study in costly paperwork shuffling -- for the applicant and the government.

Privatization has already begun. The FCC recently has authorized certain FCC approved radio electronics centers to serve as proctors for the initial licensing test. In addition to paying the FCC fee, however, an operator must pay the proctor for the privilege of taking the test. PVA urges the FCC to authorize the private proctor to actually issue the license upon the successful

completion of the competency test, and to dispense with any FCC role -- and accompanying fee -- associated with this process. PVA further urges the FCC to issue the Permit for life, abolishing the five year renewal requirement, as the requirement is not based on any renewed demonstration of competency or skill and therefore is meaningless and of no value even as it is costly and a nuisance.

PVA urges the FCC to review both of these issues as part of its continuing mission to identify unnecessary rules and improve service to the maritime community.